

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Lang et al.

Application No.: 10/681,749

Group No.: 3733

Filed: October 7, 2003

For: Minimally Invasive Joint Implant with 3-Dimensional Geometry Matching the Articular Surfaces

**Mail Stop Amendment**

**Commissioner for Patents**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

**TRANSMITTAL OF SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT  
WITHIN THREE MONTHS OF FILING OR  
BEFORE MAILING OF FIRST OFFICE ACTION (37 C.F.R. § 1.97(b))**

**IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING  
SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 C.F.R. § 1.97(b).

DATE: May 2, 2008

/Alexander J. Smolenski, Jr., Esq., #47,953/

**Alexander J. Smolenski, Jr., Esq.**

**BROMBERG & SUNSTEIN LLP**

Customer Number 02101

125 Summer Street

Boston, MA 02110-1618

US

02960/00112 867713.1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Lang et al.

Application No.: 10/681,749

Group No.: 3733

Filed: October 7, 2003

Examiner: Philogene, Pedro

For: Minimally Invasive Joint Implant with 3-Dimensional Geometry Matching the Articular Surfaces

**Commissioner for Patents**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

*NOTE: "An information disclosure statement shall be considered by the Office if filed by the applicant:*

- (1) Within three months of the filing date of a national application;*
- (2) Within three months of the date of entry of the national stage as set forth in section 1.491 in an international application; or*
- (3) Before the mailing date of a first Office action on the merits, whichever event occurs last." 37 C.F.R. section 1.97(b).*

*NOTE: "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. section 1.56(a).*

*"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:*

- (1) each inventor named in the application;*
- (2) each attorney or agent who prepares or prosecutes the application; and*
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. section 1.56(c).*

*NOTE: The "duty as described in section 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by sections 1.97(b) - (d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13-25 at 17.*

**WARNING:** *"No information disclosure statement may be filed in a provisional application." 37 C.F.R. section 1.51(b).*

**List of Sections Forming Part of This Supplemental Information Disclosure Statement**

(Information Disclosure Statement--page 1 of 7)

---

The following sections are being submitted for this Information Disclosure Statement:

*(check sections forming a part of this statement: discard unused sections and number pages consecutively)*

1. ☒ Preliminary Statements
2. ☒ Forms PTO/SB/08A and 08B (substitute for Form PTO-1449)
3. ☐ Statement as to Information Not Found in Patents or Publications
4. ☐ Identification of Prior Application in Which Listed Information Was Already Cited and for Which  
No Copies Are Submitted or Need Be Submitted
5. ☐ Cumulative Patents or Publications
6. ☒ Copies of Listed Information Items Accompanying This Statement
7. ☐ Concise Explanation of Non-English Language Listed Information Items
  - 7A. ☐ EPO Search Report
  - 7B. ☐ English Language Version of EPO Search Report
8. ☐ Translation(s) of Non-English Language Documents
9. ☐ Concise Explanation of English Language Listed Information Items (Optional)
10. ☒ Identification of Person(s) Making This Information Disclosure Statement

*(complete the following, if appropriate)*

Sections \_\_\_\_\_, respectively, have been continued on ADDED PAGE(S).

*NOTE : "Once the minimum requirements are met, the examiner has an obligation to consider the information." Notice of April 20, 1992 (1138 O.G. 37-41, 37).*

## **Section 1. Preliminary statements**

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. section 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability, or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

**SECTION 2. FORMS PTO/SB/08A and 08B (formerly Form PTO-1449)****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Lang et al. Attorney Docket: 2960/112  
Serial No: 10/681,749 Art Group Unit: 3733  
Date Filed: October 7, 2003 Examiner Name: Philogene, Pedro  
Invention: Minimally Invasive Joint Implant with 3-Dimensional Geometry Matching the Articular Surfaces

**LIST OF PATENTS AND PUBLICATIONS FOR  
APPLICANT'S SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

U.S. PATENT DOCUMENTS					
Examiner Initials	Reference Number	Document Number	Issue Date	Inventor	Class/Subclass
	RR	US 5,314,478	May 24, 1994	Oka et al.	623/18
	RS	US 5,554,190	Sep. 10, 1996	Draenert	623/16
	RT	US 5,768,134	Jun. 16, 1998	Swaelens et al.	364/468.28
	RU	US 5,835,619	Nov. 10, 1998	Morimoto et al.	382/132
	RV	US 6,835,377	Dec. 28, 2004	Goldberg et al.	424/93.7
	RW	US 6,905,514	Jun. 14, 2005	Carignan et al.	623/20.35
	RX	US 7,184,814	Feb. 27, 2007	Lang et al.	600/416
	RZ	US 7,239,908	Jul. 3, 2007	Alexander et al.	600/427

U.S. PATENT PUBLICATION DOCUMENTS					
Examiner Initials	Reference Number	Document Number	Publication Date	Inventor	Class/Subclass
	SA	US 2003/0055502	Mar. 20, 2003	Lang et al.	623/16.11
	SB	US 2004/0204760	Oct. 14, 2001	Fitz et al.	623/14.12
	SC	US 2004/0236424	Nov. 25, 2004	Berez et al.	623/14.12
	SD	US 2005/0119664	Jun. 2, 2005	Carignan et al.	606/96
	SE	US 2005/0234461	Oct. 20, 2005	Burdulis, Jr. et al.	606/79
	SF	US 2005/0267584	Dec. 1, 2005	Burdulis, Jr. et al.	623/20.19
	SG	US 2007/0198022	Aug. 23, 2007	Lang et al.	606/88
	SH	US 2007/0015995	Jan. 18, 2007	Lang et al.	600/407
	SI	US 2007/0203430	Aug. 30, 2007	Lang et al.	600/587
	SJ	US 2007/0276224	Nov. 29, 2007	Lang et al.	600/410
	SK	US 2008/0015433	Jan. 17, 2008	Alexander et al.	600/427

FOREIGN PATENT DOCUMENTS						
Examiner Initials	Reference Number	Country Code	Document Number	Publication Date	Patentee or Applicant	Class/Subclass
	SL	CN	86209787	Nov. 18, 1997		A61F 2/38
	SM	WO	95/028688	Oct. 26, 1995	Materialise	G06T 15/00

(Information Disclosure Statement--page 4 of 7)

Applicants: Lang et al. Attorney Docket: 2960/112

Serial No: 10/681,749 Art Group Unit: 3733

Date Filed: October 7, 2003 Examiner Name: Philogene, Pedro

Invention: Minimally Invasive Joint Implant with 3-Dimensional Geometry Matching the Articular Surfaces

**LIST OF PATENTS AND PUBLICATIONS FOR  
APPLICANT'S INFORMATION DISCLOSURE STATEMENT**

<b>FOREIGN PATENT DOCUMENTS</b>						
<b>Examiner Initials</b>	<b>Reference Number</b>	<b>Country Code</b>	<b>Document Number</b>	<b>Publication Date</b>	<b>Patentee or Applicant</b>	<b>Class/Subclass</b>
	<b>SN</b>	<b>WO</b>	<b>01/082667</b>	<b>Nov. 8, 2001</b>	<b>STD Manufacturing, Inc.</b>	<b>Not Classified</b>
	<b>SO</b>	<b>WO</b>	<b>04/073550</b>	<b>Sep. 2, 2004</b>	<b>Murray</b>	<b>A61F</b>

<b>OTHER DOCUMENTS</b>		
<b>Examiner Initials</b>	<b>Reference Number</b>	<b>Title of Article, Title of Journal, Volume Number, Page Numbers, Date</b>
	<b>SP</b>	Office Action dated August 1, 2006, pertaining to Application No. 10/764,010 (US Patent Publication No. US2004/0167390), 5 pages
	<b>SQ</b>	Response to Office Action dated August 1, 2006, pertaining to Application No. 10/764,010 (US Patent Publication No. US2004/0167390), 3 pages
	<b>SR</b>	Office Action dated September 6, 2007, pertaining to Application No. 10/764,010 (US Patent Publication No. US2004/0167390), 13 pages
	<b>SS</b>	Response to Office Action dated September 6, 2007, pertaining to Application No. 10/764,010 (US Patent Publication No. US2004/0167390), 22 pages
	<b>ST</b>	Office Action dated April 10, 2008, pertaining to Application No. 10/764,010 (US Patent Publication No. US2004/0167390), 17 pages
	<b>SU</b>	BLAZINA, MD et al., "Patellofemoral Replacement: Utilizing a customized Femoral Groove Replacement", Techniques Orthop, 5(1):53-55 (1990)

Examiner Signature: \_\_\_\_\_

Date Considered: \_\_\_\_\_

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation *if not* in conformance and not considered. Include copy of this form with next communication to applicant.

## Section 6. Copies of Listed Information Items Accompanying This Statement

*NOTE: 37 C.F.R. section 1.98(a)(2) requires that any information disclosure statement filed under section 1.97 shall include: "A legible copy of: (i) Each U.S. and foreign patent; (ii) Each publication or that portion which caused it to be listed; and (iii) All other information or that portion which caused it to be listed, except that no copy of a U.S. patent application need be included . . ."*

*NOTE: The wording in section 1.98(a)(2)(iii) makes it clear that the requirement to submit a copy of each item of information listed in an information disclosure statement does not apply to the citation of a U.S. patent application. Notice of January 9, 1992, 1135 O.G. 13-25, at 14.*

Legible copies of all items listed in Forms PTO/SB/08A and 08B (substitute for Form PTO-1449) accompany this information statement.

*(complete the following, if applicable)*

☒ Exception(s) to above:

**U.S. patent citations are not included pursuant to the United State Patent and Trademarks Office's September 21, 2004 waiver of the copy requirement in 37 CFR 1.98 for cited pending U.S. patent citations when the patent citations are available in the USPTO's IFW system.**

☐ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.

☐ Cumulative patents or publications identified in Section 5.

## Section 10. Identification of Person(s) Making This Information Disclosure Statement

The person making this certification is

*(check each applicable item)*

- (a) ☐ the inventor(s) who signs below

\_\_\_\_\_  
**SIGNATURE OF INVENTOR**

\_\_\_\_\_  
*(type name of inventor who is signing)*

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. section 1.56(c))

\_\_\_\_\_  
**SIGNATURE OF INVENTOR**

\_\_\_\_\_  
*(type name of inventor who is signing)*

- (c) ☒ the practitioner who signs below on the basis of the information:

*(check each applicable item)*

☐ supplied by the inventor(s).

☐ supplied by an individual associated with the filing and prosecution of this application.  
(37 C.F.R. section 1.56(c)).

☒ in the practitioner's file.

Reg. No.: 47,953

Tel. No.: (617) 443-9292

Customer No.: 002101

02960/00112 867637.1

/Alexander J. Smolenski, Jr., Esq., #47,953/

**SIGNATURE OF PRACTITIONER**

Alexander J. Smolenski, Jr., Esq.

*(type or print name of practitioner)*

125 Summer Street, 11<sup>th</sup> Floor

P.O. Address

Boston, MA 02110-1618